Special Appeal (Civil) No.149/2001
R.S.R.T.C. Vs. Smt.Veer Kaur & Others.
(in SB Civil Misc. App.No.628/2001)
Date of Order ::: 12/09//05

Hon'ble Mr. Justice V.K.Bali
Hon'ble Mr. Justice Ajay Rastogi

Mr. Ankur Mathur, for appellant (non-claimant),
None present for respondents.

(Ajay Rastogi, J.)

Instant appeal has been preferred by non-claimants questioning quantum of compensation awarded by Motor Accident Claims Tribunal, Jaipur vide Award dt.29/09/2000 in MACT Case No.469/96 and affirmed by learned Single Judge vide order dt.03/05/2001 in SB Civil Misc. Appeal No.628/2001.

Nanak Singh, who was driving truck No.DNG 1485 on National Highway No.8, died in an accident which took place prior to Sanchi Pulia in Shahpura while going towards Delhi on 21/12/95 (midnight) due to rash & negligent driving of roadways bus RJ-05-P-0273 owned by Rajasthan State Road Transport Corporation ("**RSRTC**") (appellant). Nanak Singh was unmarried. His parents (claimants) filed claim petition before the Tribunal. The Tribunal after assessing earning of deceased as Rs.3,000/- and after deducting 1/3rd whereof as personal expenses of deceased, considered Rs.2,000/- towards financial dependency of parents; and looking to 25 years' age of deceased, the Tribunal applied multiplier of 18 and awarded Rs.4.13,000/- including Rs.5,000/- towards funeral expenses, alongwith 12% interest from the date of claim petition till actual payment, against which appeal was preferred by appellant but it was dismissed by learned Single Judge,

(supra). Hence this special appeal.

Only contention advanced by Shri Ankur Mathur, Counsel for appellant is that the Tribunal has adopted multiplier of 18 looking to age of deceased whereas the deceased being unmarried, multiplier has to be applied keeping in mind age of parents and not the age of deceased. Shri Mathur placed reliance upon decision in ***Gyan Chand Jain Vs. Permanand (2003(1) TAC 490).***

We have considered contention of the Counsel for appellant and perused material on record. The deceased was 25 years of age at the time of accident and his parents were 50-52 years on the date of filing claim petition. His parents were completely depended upon him. It is also not in dispute that deceased was truck driver. It is common knowledge that truck drivers who are engaged in driving public carrier vehicle are getting, in addition to monthly salary, hard duty allowances to meet out day to day expenses in road journey while performing their duty, which is also a part of their income and that apart, future prospects have not been considered by the Tribunal keeping in view age of the deceased, therefore, taking totality of the matter even after 1/3rd deduction being made towards personal expenses, the financial dependency of the parents will come to more than what has been assessed by the Tribunal.

It is true that in case of death of an unmarried person, loss of dependency is to be determined keeping in view age of parents as held by the Apex Court. In our opinion, in totality of the

matter, even after taking note of multiplier of 12 looking to the age of parent, as held in ***Gyanchand Vs. Permanand (supra)***, total compensation would almost remain the same.

In view of what has been observed above, we do not find any substance in this appeal. Consequently, this special appeal is dismissed. No order as to costs.

(Ajay Rastogi), J. (V.K.Bali), J.

K.Khatri/149SAC2001.

In facts situation of present case, very standard formula of 1/3rd deduction towards personal expenses of the deceased who was admittedly truck driver on a transport carrier company, was not at all justified and that apart, loss which has caused to old aged parents as a result of death of their unmarried son, at no costs can be repairable but can only be compensated under the Act.

Even despite the pleading of claimants as to income of their son as Rs.4,000/- out of which Rs.3,000/- towards domestic expenses, was being given by their son (deceased), which could not have been controverted by opposite side in their written statement or their evidence adduced on record and even during the course of arguments before this Court, monthly income of deceased was assessed as Rs.3,000/- only and towards it, 1/3rd deduction was made for determination of compensation and only Rs.2,000/- per month was assessed as loss of dependency. That apart, appellant has not led any evidence on record in counter for controverting the case of claimants in rebuttal or in support of its case pleaded in written statement to the claim petition. This aspect of the matter has been considered by learned Single Judge and in that view of the matter, learned Single Judge has rightly declined to interfere in the impugned Award in respect of quantum of compensation.